

[Service Date October 20, 2009]

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,)	DOCKET TG-091127
)	
)	
Complainant,)	COMPLAINT FOR PENALTIES IN
)	THE AMOUNT OF \$64,140;
v.)	
)	
WASTE MANAGEMENT OF WASHINGTON, INC d/b/a WASTE MANAGEMENT OF GREATER WENATCHEE,)	NOTICE OF PREHEARING
)	CONFERENCE
)	(Set for November 9, 2009, at
)	10:00 a.m.)
Respondent.)	
)	
.....)	

1 **Synopsis:** *The Commission seeks penalties from Waste Management of Washington, Inc d/b/a Waste Management of Greater Wenatchee for billing its customers improper charges.*

2 The Washington Utilities and Transportation Commission (Commission) on its own motion, and through its Staff, alleges as follows:

I. BACKGROUND INFORMATION

3 Waste Management of Washington, Inc. d/b/a Waste Management of Greater Wenatchee (Waste Management or Company) is a solid waste collection company that provides service in the state of Washington under a certificate of public convenience and necessity, G-237, granted by the Commission.

4 Each solid waste collection company that is regulated by the Commission must provide service according to its tariff. The Commission reviews and must approve each tariff before it can go into effect. Providing service according to a company's tariff includes billing customers only at the rates and only for those charges that appear in the tariff.

- 5 In March 2009 a Waste Management customer contacted the Commission to complain about a charge on her bill. The charge was titled “Fuel/environmental charge” and, according to the Company representative the customer contacted, this was an approved charge. Such a charge, however, does not appear in Waste Management of Greater Wenatchee’s tariff.
- 6 After Commission Staff contacted Waste Management, the Company determined that the charge was a “clerical error” and credited the customer’s account for the amount of the charge. Waste Management admitted that other customers had been affected by the error and stated in an email to Commission Staff that the Company was “working diligently to rectify the issue and credit back the customers that were affected.”
- 7 According to information Waste Management provided to Staff, the Company sent 6,414 bills containing improper charges to its customers during February and March 2009. Waste Management has asserted that each improper charge billed during this time has been credited back to its customers.

II. PARTIES

- 8 The Washington Utilities and Transportation Commission is an agency of the State of Washington, authorized by state law to regulate the rates, services, facilities, and practices of public service companies, including solid waste collection companies, under the provisions of Title 81 RCW.
- 9 Waste Management of Washington, Inc. d/b/a Waste Management of Greater Wenatchee is a solid waste collection company as defined in RCW 81.77.010 that operates in the state of Washington.

III. JURISDICTION

- 10 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040, RCW 80.04.110, RCW 81.04.160, RCW 81.04.380, RCW 81.04.460, RCW 81.28, RCW 81.77, and WAC 480-70.

IV. APPLICABLE LAW AND REGULATION

- 11 Under state law, the term “public service company” includes every solid waste collection company. *RCW 81.04.010(16)*.
- 12 A company that collects and transports solid waste for disposal, by motor vehicle, for compensation, over the public highways in the state is a solid waste collection company. *RCW 81.77.010*.
- 13 Solid waste collection companies are common carriers. *RCW 81.04.010(11)*.
- 14 “A common carrier subject to regulation by the commission as to rates and service shall not charge, demand, collect, or receive a greater or less or different compensation for transportation of persons or property, or for any service in connection therewith, than the rates, fares, and charges applicable to such transportation as specified in its schedules filed and in effect at the time.” *RCW 81.28.080*.
- 15 Pursuant to Commission regulation, “No company may assess rates and charges for solid waste collection service that are higher, lower, or different from those contained in its approved tariff.” *WAC 480-70-236*.
- 16 State law provides that the Commission may file a complaint on its own motion setting forth any act or omission by any public service company that violates any law or any order or rule of the Commission. *RCW 81.04.110*.
- 17 A public service company that violates or fails to comply with any provision of Title 81 RCW or with any order, rule direction, demand, or requirement of the Commission is subject to a penalty of up to \$1,000 for each offense. *RCW 81.04.380*.

V. COMPLAINT

- 18 The Commission, through its Staff, re-alleges the allegations contained in paragraphs 3 through 17 above.
- 19 Waste Management has violated RCW 81.28.080 by billing customers for charges not included in the Company’s tariff.

VI. REQUEST FOR RELIEF

- 20 Staff asks the Commission to find that each bill issued by Waste Management to each customer containing a charge or charges not included in the Company's tariff constituted a violation of RCW 81.28.080.
- 21 Staff requests that the Commission, pursuant to its authority in RCW 81.04.380, assess penalties of \$10 for each violation of RCW 81.28.080, totaling \$64,140.

VII. PROBABLE CAUSE

- 22 Based on a review of the Declaration of Carlene Hughes and the attached report regarding her investigation of Waste Management, and consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds probable cause exists to issue this Complaint.

VIII. NOTICE OF PREHEARING CONFERENCE

- 23 **THE COMMISSION GIVES NOTICE That it will hold a prehearing conference in this matter on November 9, 2009, beginning at 10:00 a.m., in Room 206, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.** The purpose of the prehearing conference is to discuss procedural issues. If you are unable to attend the prehearing conference in person, you may attend via the Commission's teleconference bridge line at **360-664-3846**.
- 24 The Commission will hear this matter under the Administrative Procedure Act (APA) at RCW 34.05, including but not limited to RCW 34.05.413, RCW 34.05.431, RCW 34.05.434, RCW 34.05.440, RCW 34.05.449, and RCW 34.05.452. The Commission also will follow its procedural rules in WAC 480-07 in this proceeding, including but not limited to WAC 480-07-145, WAC 480-07-150, WAC 480-07-305, WAC 480-07-440, WAC 480-07-450, WAC 480-07-470, WAC 480-07-490, and WAC 480-07-495.
- 25 **THE COMMISSION GIVES FURTHER NOTICE that any party who fails to attend or participate in the prehearing conference set by this notice, or any other stage of this proceeding, may be held in default in accordance with RCW 34.05.440 and WAC 480-07-450.**

26 If any party or witness needs an interpreter or other assistance, please fill out the form attached to this notice and return it to the Commission.

27 The names and mailing addresses of all known parties and their known representatives are as follows:

Complainant: Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive S.W.
PO Box 47250
Olympia, WA 98504-7250

Representative: Jennifer Cameron-Rulkowski
Assistant Attorney General
1400 S. Evergreen Park Drive S.W.
P.O. Box 40128
Olympia, WA 98504-0128
(360) 664-1186

Respondent: Waste Management of Washington, Inc.
d/b/a Waste Management of Greater Wenatchee
13225 NE 126th Place
Kirkland, WA 98034

Representative: Polly L. McNeill
Summit Law Group PLLC
315 5th Ave S., Ste. 1000
Seattle, WA 98104-2682

28 Patricia Clark is appointed as the Administrative Law Judge from the Utilities and Transportation Commission's Administrative Law Division, 1300 S. Evergreen Park Drive S.W., Olympia, Washington 98504-7250, and will preside at the hearing.

- 29 Notice of any other procedural phase will be given in writing or on the record as the Commission may deem appropriate during the course of this proceeding.

DATED at Olympia, Washington, and effective October 20, 2009.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ANN E. RENDAHL
Administrative Law Judge

Inquiries may be addressed to:

Executive Director and Secretary
Washington Utilities and
Transportation Commission
Richard Hemstad Building
1300 S. Evergreen Park Drive S.W.
P. O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

NOTICE

PLEASE NOTE: The hearing facilities are accessible to interested people with disabilities; that smoking is prohibited; and, if limited English-speaking or hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

The information needed to provide an appropriate interpreter or other assistance should be stated below and returned to Washington Utilities and Transportation Commission, Attention: David W. Danner, 1300 S. Evergreen Park Drive SW, P.O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket: _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired: (Yes)_____ (No)_____

Do you need a certified sign language interpreter?

Visual_____ Tactile_____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

Phone No.: (____)_____